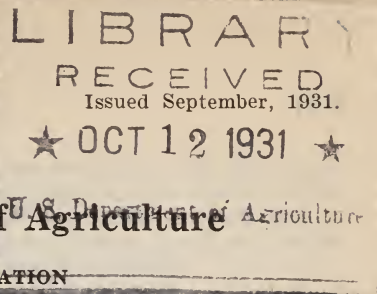


Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices



United States Department of Agriculture
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the insecticide act]

1206-1210

[Approved by the Secretary of Agriculture, Washington, D. C., September 17, 1931]

1206. Misbranding of Harris Roach Tabs. U. S. v. 7 Packages of Harris Roach Tabs. Tried to the court. Judgment for the Government. Decree of condemnation, forfeiture, and destruction entered. Motion for finding of fact filed by claimant. Motion overruled. (I. & F. No. 1382. S. No. 168.)

The Harris Roach Tabs offered for sale in the District of Columbia as hereinafter set forth were contained in packages the label of which bore claims that the article possessed insecticidal properties, which claims investigations by this department failed to substantiate. The article also claimed to be harmless and nonpoisonous to human beings and pets, whereas it contained poisonous substances, and it failed to bear a statement on the label of the name and percentage amount of each inert ingredient, or in lieu thereof a statement of the names and percentage amounts of each active ingredient, and the total percentage of inert ingredients as required by law.

On October 7, 1925, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the district aforesaid, holding a District Court, a libel (which was subsequently amended), praying seizure and condemnation of seven packages of Harris Roach Tabs. It was alleged in the libel as amended that the article was in possession of Lansburgh & Bro., at their place of business in the District of Columbia, and was there being offered for sale, and that it was misbranded insecticide within the meaning of the insecticide act of 1910.

The libel alleged that the article was misbranded in that the statements regarding the said article, to wit, "Harris Roach Tabs A Chemically Prepared Food For Killing Roaches and Waterbugs. * * * Guaranteed to free your home or buildings of Roaches and Waterbugs in three weeks. * * * A New Discovery. Created by popular demand an exterminator of waterbugs and roaches. Experts have reported that insect life is on the increase even in the face of intensive use of the old-fashioned contact or repellent powders and liquids. Old methods have been discarded for the principle that will guarantee absolute extermination of waterbugs and roaches. Harmless to * * * pets. * * * Non-poisonous to Humans and Pets. Roach Tabs have a disagreeable taste which will prevent their being eaten by children. Should they be swallowed, however, no serious results would follow," borne on the label affixed to the packages containing the article, were false and misleading; and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article when used as directed would be an effective remedy against and would exterminate roaches and water bugs and would free a house or building of roaches and water bugs in three weeks, and that it was harmless to humans and pets; whereas the libel alleged that the article when used as directed would not be an effective remedy against and would not exterminate roaches and water bugs and would not free a house or building of roaches and water bugs in three weeks, and was not harmless and nonpoisonous to humans and pets, but was harmful and poisonous, since it contained boric acid and sodium fluoride.

Misbranding was alleged for the further reason that the article consisted partially of inert substances or ingredients, namely, substances that do not prevent, destroy, repel, or mitigate insects, and the name and percentage amount

of each of the said inert substances so present therein were not stated plainly and correctly on the label affixed to the package containing the article; nor, in lieu thereof, were the name and percentage amount of each substance or ingredient of the article having insecticidal properties, and the total percentage of the inert ingredients present in the article, stated plainly and correctly on the label.

On November 7, 1925, P. F. Harris, Washington, D. C., filed a claim and answer denying the material allegations of the libel. On February 26, 1931, the case came on for hearing before the court and evidence was introduced, both oral and documentary, by the Government and claimant, and arguments on the law and facts were submitted by counsel for both parties. On March 10, 1931, judgment was entered finding the product misbranded and ordering that it be condemned and destroyed. On April 8, 1931, a motion for a finding of fact was filed by the claimant. The following memorandum opinion was handed down by the court on May 2, 1931, in overruling this motion: (Cox, J.) "Upon consideration of the libel, and of the evidence introduced on the hearing, the court has reached the following conclusions:

"The article, known as Harris Roach Tabs, is an insecticide within the meaning of the insecticide act of 1910, as alleged in paragraph 4 of the libel.

"The evidence failed to sustain the allegations of paragraph 5 that the material is ineffective. The evidence on this point was conflicting in many respects, but there was material evidence that, at least under some conditions, the Roach Tabs have proven satisfactory to many persons, including Government departments, who prefer them to the powdered form of material, the reasonable effectiveness of which was not questioned.

"The evidence failed to sustain the allegations of paragraph 4 that the Roach Tabs are harmful and poisonous to human beings and pets.

"The evidence sustains the allegations of paragraph 7 in that the labels used thereon do not show, as required by law, the name and percentage of each of the inert substances or ingredients present in the Roach Tabs, nor in lieu thereof, the name and percentage amount of the substances in such Roach Tabs having insecticidal properties and the total percentage of the inert substances or ingredients present in such Roach Tabs."

The court being of the opinion that the proof of the allegations of paragraph 7 of the petition is sufficient to sustain the libel, has signed the decree of condemnation under date of March 10, 1931. Filed now for then this May 2, 1931 for March 10, 1931.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1207. Misbranding of Margo's bottled moth preventative, insect preventative, and deodorizer. U. S. v. 75 Cartons of Margo's Bottled Moth Preventative, Insect Preventative, and Deodorizer. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1528. S. No. 218.)

The article involved in the interstate shipments herein described was composed of certain substances molded into bottle-shaped cakes the label of which bore statements representing that it would control and prevent moths and other insects, also that it would be effective as a deodorizer, whereas investigation showed that it would not be effective for such purposes.

On August 25, 1930, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 75 cartons of Margo's bottled moth preventative, insect preventative, and deodorizer. It was alleged in the libel that the article had been shipped by the Margo Sales Co., from Philadelphia, Pa., into the State of California, on or about May 26 and June 28, 1930, that having been so transported it remained unsold in the original unbroken packages at Los Angeles, Calif., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statements, to wit, "Margo's Bottled Moth Preventative Insect Preventative * * * Its Bottled strength * * * drives away moths, insects and all vermin. * * * Bottled for home, office, store, factory, etc. * * * Its bottled strength combats undesirable odors," borne on the label affixed to the cakes of the article, were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article would be an effective

control for moths, all insects, and all vermin, and would prevent all insects in the home, office, store, factory, etc., and would combat all undesirable odors; whereas the said article would not be an effective control for moths, all insects, and all vermin, and would not prevent all insects in the home, office, store, factory, etc., and it would not combat all undesirable odors.

On June 13, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1208. Misbranding of Moth-It. U. S. v. 18 Dozen Packages of Moth-It. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1544. S. No. 237.)

Examination of an article, sold as an insecticide under the name of Moth-It, from the shipment herein described showed that the package containing the article, and an accompanying display carton, bore statements representing that it would control and destroy moths and their larvae under all conditions, and would be effective against all other insect pests, whereas it would not. The article also contained an inert ingredient and failed to declare the said inert ingredient as required by law.

On May 28, 1931, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 18 dozen packages of Moth-It. It was alleged in the libel that the article had been shipped by the Pacific Chemical Co., from New York, N. Y., into the State of Pennsylvania, on or about March 24, 1931, that having been so transported it remained in the original unbroken packages at Philadelphia, Pa., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

It was alleged in the libel that the article was misbranded in that the statements, to wit, "Protection From Moths and Other Insect Pests, Kills Moths, Death to Moths and Their Larvae Moth-It Moth Insurance," borne on the display carton, and the statements, to wit, "Kills Moths and Their Eggs * * * Use two or more tablets for upholstered furniture. * * * These tablets give best protection when placed in closed closets * * * Destroys Moths, Their Eggs, and Other Insect Pests," borne on the package containing the article, were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article when used as directed would be effective against moths and their larvae under all conditions, would insure protection against moths under all conditions, would be effective against moths that infest upholstered furniture, and would be effective against all other insect pests; whereas the article when used as directed would not be effective against moths and their larvae under all conditions, would not insure protection against moths under all conditions, would not be effective against moths that infest upholstered furniture, and would not be effective against all other insect pests.

Misbranding was alleged for the further reason that the article consisted partially of an inert substance, to wit, sodium chloride, which substance does not prevent, destroy, repel, or mitigate insects when used as directed, and the name and percentage amount of the said inert substance so present therein were not stated plainly and correctly on the label affixed to the package containing the said article; nor, in lieu thereof, were the name and percentage amount of each and every one of the substances or ingredients of the article having insecticidal properties, and the total percentage of the inert substance so present therein, stated plainly and correctly on the said label.

On June 25, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1209. Misbranding of Parodant. U. S. v. 10 Dozen Cans of Parodant. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1541. S. No. 235.)

Examination of a product, known as Parodant, from the shipment herein described having shown that the labels bore statements representing that the article possessed insecticidal, fungicidal, and deodorizing properties which it did not possess, the Secretary of Agriculture reported the matter to the United States attorney for the District of Delaware.

On April 16, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 10 dozen cans of Parodant. It was alleged in the libel that the article had been shipped by the George H. Garnet Co., from Allentown, Pa., on or about January 30, 1931, that having been so transported it remained unsold in the original unbroken packages at Wilmington, Del., and that it was a misbranded insecticide and fungicide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statements regarding the article, borne on the can and display carton labels, namely, (can) "Moths, Ants, Bugs, and Insects Are Repelled Where 'Parodant' Is Used," (display carton) "'Parodant' Repels Moths-Ants-Flies-Mosquitoes-Roaches-Bugs and other Insects. * * * 'Parodant' is to the Air what Soap is to Dirt. Leaves The Air Sweet, Pure and Clean," (can) "Neutralizes offending odors * * * Overcome offending odors about homes, offices, schools, churches, hotels, institutions, factories, trains, steamships, etc. Bath Rooms require vigilant attention to guard against embarrassing odors. Use 'Parodant' in toilet rooms, toilet urinals, bath rooms, bed rooms, closets, hallways, dining rooms. * * * The Home needs 'Parodant.' Sprinkle on carpet, into closets, chests, drawers, mattresses, about kitchens, bed rooms, cellar, attic, hall-ways, garbage cans, bed pans, commodes, cuspidors, outhouses, etc., wherever unpleasant odors arise," (display carton) "'Parodant' Keeps The Home Free From Odors That Are Embarrassing * * * Overcomes Offending Odors," were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article when used as directed would repel moths, ants, flies, mosquitoes, roaches, bugs, and other insects, would leave the air sweet, pure, and clean, would neutralize offending odors, would keep the home free from all embarrassing odors, and would overcome all offending, embarrassing, unpleasant odors in the places named on the labels; whereas the article when used as directed would not repel moths, ants, flies, mosquitoes, roaches, bugs, and other insects, would not leave the air sweet, pure, and clean, would not neutralize offending odors, would not keep the home free from all embarrassing odors, and would not overcome all offending, embarrassing, unpleasant odors in the places named on the said labels.

On June 30, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1210. Misbranding of Star parasite remover. U. S. v. 6 Dozen Bottles of Star Parasite Remover. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1538. S. No. 231.)

Examination of Star parasite remover from the shipment herein described showed that the bottle label and accompanying circular bore statements representing that the article was effective against certain insects and parasites that infest poultry, would improve the health and condition of poultry, and be valuable in certain diseases thereof; whereas the article consisted entirely of inert substances, which when used as directed would not be effective for the said purposes.

On April 1, 1931, the United States attorney, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the District of New Mexico a libel praying seizure and condemnation of six dozen bottles of Star parasite remover. It was alleged in the libel that the article had been shipped by the McLemore Bass Drug Co., Abilene, Tex., into the State of New Mexico, on or about October 17, 1929, that having been so transported it remained in the original unbroken packages at Roswell, N. Mex., and that it was a misbranded insecticide and fungicide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statements, to wit, "Star Parasite Remover. A sulphurous compound recommended for fowls subject to insects of all kinds. * * * If above directions are followed, we will refund money if Star Parasite Remover fails to keep fowls free of worms, lice, mites, fleas, red bugs, and blue bugs. * * * Baby chicks will never become wormy if given one treatment each week. * * * Valuable as a tonic for toning the system, improving health and preventing disease.

* * * If above directions are followed, we will refund money if Star Parasite Remover fails to keep * * * Also if its use fails to improve health, vitality and egg production. * * * Especially valuable in cases of colds, roup, diarrhea, etc.," borne on the labels of the bottles containing the article, and the statements, to wit, "Star Parasite Remover * * * It will * * * free them of intestinal worms, keep them rid of lice, mites, fleas, red bugs, blue bugs, * * * Keep your hens hearty and healthy during the molting season. * * * Begin now and give them Star Parasite Remover in their drinking water or feed. It will tone up their system, make them eat heartily. * * * Prevents disease and greatly increases egg production through the fall and winter—or money back," borne on a card circular inclosed and shipped with the said article, were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article when used as directed would be effective against all kinds of insects on fowls, would be effective against all varieties of worms that infest poultry and against lice, mites, fleas, red bugs, and blue bugs that infest poultry, would act as a tonic for the system, would improve the health and vitality, would prevent disease, would improve egg production in poultry and be especially valuable in cases of colds, roup, diarrhoea, etc., would keep hens healthy during molting season, would tone up the system and make them eat heartily, would prevent disease, and would greatly increase egg production through the fall and winter; whereas the article when used as directed would not be effective for the said purposes.

Misbranding was alleged for the further reason that the article consisted completely of inert substances or ingredients, namely, substances that do not prevent, destroy, repel, or mitigate insects when used as directed; and the name and percentage amount of each and every one of such inert substances present in the article were not stated plainly and correctly on the label affixed to the bottles.

On June 12, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 1206-1210

	N. J. No.		N. J. No.
Harris Roach Tabs:		Moth-It:	
Harris, P. J-----	1206	Pacific Chemical Co-----	1208
Lansburgh & Bro-----	1206	Parodant:	
Margo's bottled moth preventative, insect preventative, and deodorizer:		Garnet, George H., Co-----	1209
Margo Sales Co-----	1207	Star parasite remover:	
		McLemore Bass Drug Co-----	1210

